

TRAVEL PRODUCER LICENSING

May 2013

Real Problems with the Current Licensing Process

The NAIC recognized the problems with limited lines licensing in its February 2008 Producer Licensing Assessment Aggregate Report. These problems and regulatory inconsistencies among the states are driven by a number of underlying factors, reflecting both the realities of the market and the regulatory approaches of the states:

- Non-insurance travel retailers (travel agents) that distribute travel products are not in the business of insurance, nor are they considered so by consumers. The non-insurance travel retailer's insurance activity is very limited and is not clearly considered "licensable" under the PLMA Guidelines.
- The licensed insurance provider (insurer, MGA, administrator) is normally clearly identified in the pre-packaged ancillary insurance materials that are distributed to consumers by the non-insurance travel retailer. These materials are identical or nearly identical to the materials the consumer would get directly from the licensed insurance provider. Moreover, the insurance product is a discretionary buy; it is first party, short-tail coverage; and is offered as an add-on to a retail product or service.
- Consumers and regulators generally treat the licensed insurance provider as the first responder for questions or complaints, including complaints against retail travel agents, which are few. In fact, in 2010 a leading and representative licensed travel insurance provider had **250 complaints out of 6,000,000 policies sold (0.004%)**
- Travel retailers may do business in one state or many; in fact, travel agents cannot reasonably predict the state or states (outside their resident states) in which they might do business – because they could get a call from anywhere for travel services. There are approximately 16,000 travel agent retail locations in the U.S.—nearly 9,000 of which are single location operations. Travel agents average revenue is \$200,000, of which only 1.9% (\$3,800) represents travel insurance.
- There are **41 different licensing qualification codes** to get licensed for travel insurance across the states. Many states do not accept any or the same electronic application. As a result, it commonly takes **6 months to get licensed** to sell travel insurance across the U.S. This makes full compliance nearly impossible in an industry that can suffer high turnover.

Fixing the Problems

The NAIC and NCOIL have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance providers and travel retailers. The NAIC adopted Uniform Licensing Standards ("ULS") in late 2010, and, in November 2012, NCOIL adopted a model act that would accomplish the same goals as the ULS.

The NAIC's standards and the NCOIL model act establish a licensing framework that reflects the unique distribution system of travel insurance in the travel industry and appropriately places much of the regulatory burden not on the retail travel agent (who is not, after all, an insurance agent), but on the insurer or managing general agent who develops and distributes the product. The NAIC ULS and the

NCOIL model act improve consumer protection by requiring clearer accountability and notice to the consumer and regulator with respect to who is responsible for the sale. They also help bridge the gap between widely accepted regulatory practices in the states and the actual state rules. Moreover, the NAIC ULS and the NCOIL draft model more clearly distinguish licensable and non-licensable activities for limited lines products such as travel insurance, and promote uniformity to help states more effectively govern these products.

Key elements:

- Non-insurance retailers (“Travel Retailers”) may offer and disseminate travel insurance under a licensed insurance provider (MGA, insurer, administrator), if and only if certain consumer protections are met. These protections include:
 - The licensed business entity is clearly identified as the licensed producer on marketing materials and fulfillment packages distributed by Travel Retailers to customers; identification shall include the entity’s name and contact information;
 - The licensed business entity keeps a register of each Travel Retailer that offers Travel Insurance on the licensed business entity’s behalf. The register shall include the name and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer’s operations, and the Travel Retailer’s Federal Tax Identification Number. The licensed business entity shall also certify that the Travel Retailer registered complies with 18 USC 1033. The licensed business entity shall submit such Register within 30 days upon request by the Commissioner;
 - The licensed business entity has designated one of its employees as a licensed individual producer (a “Designated Responsible Producer” or “DRP”) responsible for the business entity’s compliance with state insurance laws, rules and regulations;
 - The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the licensed business entity’s insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;
 - The licensed business entity has paid all applicable insurance producer licensing fees as set-forth in state law;
 - Certain required disclosures are made to purchasers; and
 - The licensed business entity requires each employee of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which may be subject to review by the Commissioner.
- If these consumer protections are not met, non-insurance retailers would be required to be licensed separately as licensed limited lines insurance producers.
- The definition of travel insurance is updated, and includes language distinguishing travel insurance from coverages provided for longer term military or ex-pat assignments.
- Licensable and non-licensable activities are more clearly defined for those offering limited lines products.

State Implementation of Reforms

